

**Chapter 34**  
**Utah Postsecondary Proprietary School Act**  
**Part 1**  
**General Provisions**

**13-34-101 Title.**

This chapter is known as the "Utah Postsecondary Proprietary School Act."

Enacted by Chapter 222, 2002 General Session

**13-34-102 Legislative intent.**

It is the policy of this state to do the following:

- (1) encourage private postsecondary education and training;
- (2) assure and protect the integrity of certificates and diplomas conferred by proprietary postsecondary educational institutions;
- (3) protect students and potential students from deceptively promoted, inadequately staffed, and unqualified proprietary institutions and programs; and
- (4) avoid unnecessary interference by the division with the internal academic policies and management practices of postsecondary educational institutions, but to facilitate disclosure of those matters to students and the public.

Enacted by Chapter 222, 2002 General Session

**13-34-103 Definitions.**

As used in this chapter:

- (1) "Agent" means any person who:
  - (a) owns an interest in or is employed by a proprietary school; and
  - (b)
    - (i) enrolls or attempts to enroll a resident of this state in a proprietary school;
    - (ii) offers to award educational credentials for remuneration on behalf of a proprietary school; or
    - (iii) holds himself out to residents of this state as representing a proprietary school for any purpose.
- (2)
  - (a) "Certificate of registration" means approval from the division to operate a school or institution in compliance with this chapter and rules adopted under this chapter.
  - (b) "Certificate of registration" does not mean an endorsement of the school or institution by either the division or the state.
- (3) "Division" means the Division of Consumer Protection.
- (4) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify or appear to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for any educational program.
- (5) "Institution" means an individual, corporation, partnership, association, cooperative, or other legal entity.
- (6) "Offer" means to advertise, publicize, solicit, or encourage any person directly or indirectly.
- (7) "Operate" in this state means to:

- (a) maintain a place of business in the state;
  - (b) solicit business in the state;
  - (c) conduct significant educational activities within the state; or
  - (d) offer or provide postsecondary instruction leading to a postsecondary degree or certificate to any number of Utah residents from a location outside the state by correspondence or any telecommunications or electronic media technology.
- (8) "Ownership" means:
- (a) the controlling interest in a school, institution, or college; or
  - (b) if an entity holds the controlling interest in the school, institution, or college, the controlling interest in the entity that holds the controlling interest in the school, institution, or college.
- (9) "Postsecondary education" means education or educational services offered primarily to individuals who:
- (a) have completed or terminated their secondary or high school education; or
  - (b) are beyond the age of compulsory school attendance.
- (10)
- (a) "Proprietary school" means a private institution, including a business, modeling, paramedical, tax preparation, or trade or technical school, that offers postsecondary education:
    - (i) in consideration of the payment of tuition or fees; and
    - (ii) for the attainment of educational, professional, or vocational objectives.
  - (b) "Proprietary school" does not include an institution that is exempt from this chapter under Section 13-34-105.
- (11) "Utah institution" means a school or institution that:
- (a) offers postsecondary education; and
  - (b) is headquartered or primarily operates in Utah.

Amended by Chapter 360, 2014 General Session

**13-34-104 Prohibited acts -- Exceptions -- Responsibilities of proprietary schools.**

- (1) Except as provided in this chapter, a proprietary school may not offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study as outlined in the proprietary school's catalogue.
- (2) The prohibition described in Subsection (1) does not apply to:
  - (a) honorary credentials clearly designated as such on the front side of a diploma; or
  - (b) certificates and awards by a proprietary school that offers other educational credentials requiring enrollment in and successful completion of a prescribed program of study in compliance with the requirements of this chapter.
- (3) A proprietary school shall provide bona fide instruction through student-faculty interaction.
- (4) A proprietary school may not enroll a student in a program unless the proprietary school has made a good-faith determination that the student has the ability to benefit from the program.
- (5) A proprietary school may not make or cause to be made any oral, written, or visual statement or representation that an institution described in Subsection 13-34-107(2)(a)(ii) knows or should know to be:
  - (a) false;
  - (b) deceptive;
  - (c) substantially inaccurate; or
  - (d) misleading.
- (6) The division shall establish standards and criteria by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the following:

- (a) the awarding of educational credentials;
- (b) bona fide instruction through student-faculty interaction; and
- (c) determination of the ability of a student to benefit from a program.

Amended by Chapter 378, 2010 General Session

**13-34-105 Exempted institutions.**

- (1) This chapter does not apply to:
- (a) a Utah institution directly supported, to a substantial degree, with funds provided by:
    - (i) the state;
    - (ii) a local school district; or
    - (iii) other Utah governmental subdivision;
  - (b) an institution that offers instruction exclusively at or below the 12th grade level;
  - (c) a lawful enterprise that offers only professional review programs, including C.P.A. and bar examination review and preparation courses;
  - (d) a private institution that:
    - (i) provides postsecondary education; and
    - (ii) is owned, controlled, operated, or maintained by a bona fide church or religious denomination, that is exempted from property taxation under the laws of this state;
  - (e) a school or institution that is accredited by a regional or national accrediting agency recognized by the United States Department of Education;
  - (f) subject to Subsection (4), a business organization, trade or professional association, fraternal society, or labor union that:
    - (i) sponsors or conducts courses of instruction or study predominantly for bona fide employees or members; and
    - (ii) does not advertise as a school;
  - (g) an institution that:
    - (i)
      - (A) exclusively offers general education courses or instruction that are remedial, avocational, nonvocational, or recreational in nature; and
      - (B) does not advertise occupation objectives or grant educational credentials; or
    - (ii) exclusively prepares individuals to teach courses or instruction described in Subsection (1) (g)(i)(A);
  - (h) an institution that offers only workshops or seminars:
    - (i) lasting no longer than three calendar days; and
    - (ii) for which academic credit is not awarded;
  - (i) an institution that offers programs:
    - (i) in barbering, cosmetology, real estate, or insurance; and
    - (ii) that are regulated and approved by a state or federal governmental agency;
  - (j) an education provider certified by the Division of Real Estate under Section 61-2c-204.1;
  - (k) an institution that offers aviation training if the institution:
    - (i)
      - (A) is approved under Federal Aviation Regulations, 14 C.F.R. Part 141; or
      - (B) provides aviation training under Federal Aviation Regulations, 14 C.F.R. Part 61; and
    - (ii) exclusively offers aviation training that a student fully receives within 24 hours after the student pays any tuition, fee, or other charge for the aviation training;
  - (l) an institution that provides emergency medical services training if all of the institution's instructors, course coordinators, and courses are approved by the Department of Health; and

- (m) an institution that exclusively conducts nurse aide training programs that are approved by the State Office of Vocational Education and are subject to the Nurse Aide Registry.
- (2) If available evidence suggests that an exempt institution under this section is not in compliance with the standards of registration under this chapter and applicable division rules, the division shall contact the institution and, if appropriate, the state or federal government agency to request corrective action.
- (3) An institution, branch, extension, or facility operating within the state that is affiliated with an institution operating in another state shall be separately approved by the affiliate's regional or national accrediting agency to qualify for the exemption described in Subsection (1)(e).
- (4) For purposes of Subsection (1)(f), a business organization, trade or professional association, fraternal society, or labor union is considered to be conducting the course predominantly for bona fide employees or members if it hires a majority of the persons who:
  - (a) successfully complete its course of instruction or study with a reasonable degree of proficiency; and
  - (b) apply for employment with that same entity.

Amended by Chapter 360, 2014 General Session

### **13-34-106 Responsibilities of division.**

The division shall:

- (1) prescribe the contents of the registration statements required by this chapter relating to the quality of education and ethical and business practices;
- (2) upon receipt and approval of a registration statement under Section 13-34-107, issue a certification of registration;
- (3) receive, investigate, and make available for public inspection a registration statement filed by a proprietary school operating or intending to operate in the state;
- (4) maintain and publicize a list of proprietary schools for which a registration statement is on file with the division;
- (5) on the division's own initiative or in response to a complaint filed with the division, do any of the following with respect to an institution subject to, or reasonably believed by the division to be subject to, this chapter:
  - (a) investigate;
  - (b) audit;
  - (c) review;
  - (d) appropriately act, including enforcing this chapter or any other law enforced by the division; or
  - (e) refer a matter to another governmental entity;
- (6) negotiate and enter into an interstate reciprocity agreement with another state, if in the judgment of the division, the agreement helps effectuate the purposes of this chapter;
- (7) consent to the use of an educational term in a business name in accordance with Section 13-34-114; and
- (8) establish and maintain a process for reviewing and appropriately acting on complaints concerning institutions that provide postsecondary education and operate in the state, including enforcing applicable state laws.

Amended by Chapter 360, 2014 General Session

**13-34-107 Advertising, recruiting, or operating a proprietary school -- Required registration statement or exemption -- Certificate of registration -- Registration does not constitute endorsement.**

- (1)
  - (a) Unless an institution complies with Subsection (1)(b), the institution may not do any of the following in this state:
    - (i) advertise a proprietary school;
    - (ii) recruit students for a proprietary school; or
    - (iii) operate a proprietary school.
  - (b) An institution may not engage in an activity described in Subsection (1)(a) unless the institution:
    - (i)
      - (A) files with the division a registration statement relating to the proprietary school that is in compliance with:
        - (I) applicable rules made by the division; and
        - (II) the requirements set forth in this chapter; and
      - (B) obtains a certificate of registration; or
    - (ii) establishes an exemption with the division.
  - (c)
    - (i) Except as provided in Subsection (1)(c)(ii), an institution that files a registration statement under this section shall file a separate registration statement and pay a separate fee for each physical campus that the institution operates as a proprietary school.
    - (ii) An institution that registered with the division before May 10, 2011 is not required to comply with Subsection (1)(c)(i) until the institution's next regular renewal date.
- (2)
  - (a) The registration statement or exemption described in Subsection (1) shall be:
    - (i) verified by the oath or affirmation of the owner or a responsible officer of the proprietary school filing the registration statement or exemption; and
    - (ii) include a certification as to whether any of the following has violated laws, federal regulations, or state rules as determined in a criminal, civil, or administrative proceeding:
      - (A) the proprietary school; or
      - (B) any of the following with respect to the proprietary school:
        - (I) an owner;
        - (II) an officer;
        - (III) a director;
        - (IV) an administrator;
        - (V) a faculty member;
        - (VI) a staff member; or
        - (VII) an agent.
  - (b) The proprietary school shall:
    - (i) make available, upon request, a copy of the registration statement, showing the date upon which it was filed; and
    - (ii) display the certificate of registration obtained from the division in a conspicuous place on the proprietary school's premises.
- (3)
  - (a) A registration statement and the accompanying certificate of registration are not transferable.

- (b) In the event of a change in ownership or in the governing body of the proprietary school, the new owner or governing body, within 30 days after the change, shall file a new registration statement.
- (4)
  - (a) Except as provided in Subsection (3)(b), a registration statement or a renewal statement and the accompanying certificate of registration are effective for a period of two years after the date of filing and issuance.
  - (b) No later than one year after the issuance or renewal of a certificate of registration to a proprietary school, the proprietary school shall:
    - (i) submit a review of the proprietary school's continued qualification for a certificate of registration, on a form approved by the division; and
    - (ii) pay a fee established under this section and Section 63J-1-504.
- (5)
  - (a) The division shall establish a graduated fee structure for the filing of registration statements by various classifications of institutions pursuant to Section 63J-1-504.
  - (b) Fees are not refundable.
  - (c) Fees shall be deposited in the Commerce Service Account created by Section 13-1-2.
- (6)
  - (a) Each proprietary school shall:
    - (i) demonstrate fiscal responsibility at the time the proprietary school files its registration statement as prescribed by rules of the division; and
    - (ii) as provided in Subsection (6)(b), provide evidence to the division that the proprietary school:
      - (A) is financially sound; and
      - (B) can reasonably fulfill commitments to and obligations the proprietary school has incurred with students and creditors.
  - (b) The evidence that a propriety school is required to provide under Subsection (6)(a)(ii) includes:
    - (i) for a proprietary school that has not operated long enough to complete a fiscal year:
      - (A) pro forma financial statements until the information described in Subsection (6)(b)(ii) is available; and
      - (B) a commercial credit report for the proprietary school and a consumer credit report for each individual with an ownership interest in the proprietary school; and
    - (ii) for a proprietary school that has completed a fiscal year or as soon as a proprietary school completes its first fiscal year:
      - (A) a current financial statement, with all applicable footnotes, for the most recent fiscal year, including a balance sheet, a statement of income, a statement of retained earnings, and a statement of cash flow; and
      - (B) a certified fiscal audit of the proprietary school's financial statement, performed by a certified or licensed public accountant, or a commercial credit report for the proprietary school and a consumer credit report for each individual with an ownership interest in the proprietary school.
  - (c) In evaluating a proprietary school's fiscal responsibility under this Subsection (6), the division may consider:
    - (i) any judgment, tax lien, collection action, bankruptcy schedule, or history of late payments to creditors;
    - (ii) documentation showing the resolution of any matter listed in Subsection (6)(c)(i);
    - (iii) the proprietary school's explanation for any of the matters listed in Subsection (6)(c)(i);
    - (iv) any guarantee agreement provided for the proprietary school; and

- (v) any history of a prior entity that:
    - (A) is owned or operated by any individual with an ownership interest in the proprietary school; and
    - (B) has failed to maintain fiscal responsibility.
  - (d) The division may require evidence of financial status at other times when it is in the best interest of students to require such information.
- (7)
- (a) A proprietary school applying for an initial certificate of registration or seeking renewal shall provide in a form approved by the division:
    - (i) a surety bond;
    - (ii) a certificate of deposit; or
    - (iii) an irrevocable letter of credit.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules providing for:
    - (i) the amount of the bond, certificate, or letter of credit required under Subsection (7)(a), not to exceed in amount the anticipated tuition and fees to be received by the proprietary school during a school year;
    - (ii) the execution of the bond, certificate, or letter of credit;
    - (iii) cancellation of the bond, certificate, or letter of credit during or at the end of the registration term; and
    - (iv) any other matters related to providing the bond, certificate, or letter of credit required under Subsection (7)(a).
  - (c) The bond, certificate, or letter of credit shall be used as a protection against loss of advanced tuition, book fees, supply fees, or equipment fees:
    - (i) collected by the proprietary school from a student or a student's parent, guardian, or sponsor prior to the completion of the program or courses for which it was collected; or
    - (ii) for which the student is liable.
- (8)
- (a) Except as provided in Section 13-34-113, the division may not refuse acceptance of a registration statement that is:
    - (i) tendered for filing and, based on a preliminary review, appears to be in compliance with Subsections (1), (2), and (6); and
    - (ii) accompanied by:
      - (A) the required fee; and
      - (B) one of the following required by Subsection (7):
        - (I) surety bond;
        - (II) certificate of deposit; or
        - (III) irrevocable letter of credit.
  - (b) A certificate of registration is effective upon the date of issuance.
  - (c) The responsibility of compliance is upon the proprietary school and not upon the division.
  - (d)
    - (i) If it appears to the division that a registration statement on file may not be in compliance with this chapter, the division may advise the proprietary school as to the apparent deficiencies.
    - (ii) After a proprietary school has been notified of a deficiency under Subsection (8)(d)(i), a new or amended statement may be presented for filing by the proprietary school, accompanied by:
      - (A) the required fee; and
      - (B) one of the following required by Subsection (7):

- (I) surety bond;
  - (II) certificate of deposit; or
  - (III) irrevocable letter of credit.
- (9) The following does not constitute and may not be represented by any person to constitute, an endorsement or approval of the proprietary school by either the division or the state:
- (a) an acceptance of:
    - (i) a registration statement;
    - (ii) a renewal statement; or
    - (iii) an amended registration statement; and
  - (b) issuance of a certificate of registration.

Amended by Chapter 221, 2011 General Session

**13-34-108 Information required to be available -- Documents to be fair and accurate -- Fair and ethical practices.**

- (1) It is a violation of this chapter for any institution or proprietary school, which is required to file a registration statement under this chapter, to offer postsecondary education in this state unless:
- (a) the institution or proprietary school makes available:
    - (i) in writing;
    - (ii) to all applicants;
    - (iii) prior to:
      - (A) enrollment of the applicant; or
      - (B) the receipt of any tuition by the institution or proprietary school; and
    - (iv) information that includes the following:
      - (A) the proprietary school name, which shall be representative of the programs offered at the proprietary school;
      - (B) the address of the proprietary school;
      - (C) the location of the proprietary school;
      - (D) the facilities, faculty, training equipment, and instructional programs of the proprietary school;
      - (E) enrollment qualifications;
      - (F) accurate information regarding the relationship of the program of the institution or proprietary school to state licensure requirements for practicing a related occupation and profession in Utah;
      - (G) tuition, fees, and other charges and expenses;
      - (H) financial assistance, cancellation, and tuition refund policies, including the posting of:
        - (I) a surety bond;
        - (II) a certificate of credit; or
        - (III) an irrevocable letter of credit;
      - (I) length of programs;
      - (J) graduation requirements;
      - (K) subject to Subsection (2), for each of the immediately preceding three years:
        - (I) graduation rates; and
        - (II) employment rates; and
      - (L) awarding of appropriate educational credentials to indicate satisfactory course completions;
  - (b) all recruiting documents, advertising, solicitations, publicity releases, and other public statements regarding the proprietary school are fair and accurate;



- (c) all agents or sales representatives of the proprietary school are required by the proprietary school to comply with ethical practices prescribed by the division; and
  - (d) the institution or proprietary school makes available to the division for inspection during normal business hours, whether or not the inspection is scheduled or announced, all records relevant to:
    - (i) the operation of the institution or proprietary school; and
    - (ii) the efforts of the institution or proprietary school to comply with this chapter.
- (2)
- (a) Beginning on May 2, 2005, an institution or proprietary school shall collect and maintain the information necessary to comply with Subsection (1)(a)(iv)(K).
  - (b) Prior to May 2, 2008, if an institution or proprietary school has the information described in Subsection (1)(a)(iv)(K) for a time period of three years or less, the institution or proprietary school shall provide the information for the time period the institution or proprietary school has the information.

Amended by Chapter 221, 2011 General Session

**13-34-109 Discontinuance of operations -- Filing of transcripts.**

- (1) If a proprietary school elects to discontinue its operations in this state, the proprietor or administrator of the school shall file with the division a copy of each student's grade transcript in either written or microfilm form, relating to all courses of instruction and all students enrolled in the school during the previous 10 years.
- (2) The responsibility to file records under this section is enforceable by injunction issued by a court of competent jurisdiction in an action brought upon the request of the division or, on his own initiative, by the attorney general or by the county attorney of the county in which the proprietary school is or was operating.
- (3) The division shall maintain for at least 10 years a file of all records received by it under this section.

Enacted by Chapter 222, 2002 General Session

**13-34-110 Enforcement of contracts or agreements -- Rescission based on defective registration statement.**

- (1) A proprietary school may not enforce in the courts of this state a contract or agreement relating to postsecondary education services in this state unless, at the time the contract or agreement was executed, an effective registration statement was on file with the division and made accessible to every applicant at the time of admission to the school.
- (2) It is a violation of this chapter if a proprietary school or the proprietary school's agent:
  - (a) fails to file an effective registration statement;
  - (b) willfully omits from a registration statement provided under Section 13-34-107 a material statement of fact required by this chapter or applicable regulations; or
  - (c) includes in a registration statement any material statement of fact that the proprietary school knew or should have known to be false, deceptive, inaccurate, or misleading.
- (3) A student who enrolled in a proprietary school, in reliance upon the school's registration statement, may rescind the contract or agreement of enrollment and obtain a refund from the school of all tuition, fees, and other charges paid to the school if the school or its agent committed a violation under Subsection (2).
- (4) A violation of this chapter is also a violation of Section 13-11-4.

Amended by Chapter 360, 2014 General Session

**13-34-111 Referral of suspected violations -- Penalty.**

- (1) The division may report any information concerning a possible violation of this chapter or of rules made under this chapter to the attorney general, the county attorney, or district attorney of any county or prosecution district in which the activity is occurring or has occurred.
- (2) The attorney described in Subsection (1) shall investigate the complaint and immediately prosecute or bring suit to enjoin an act determined to be a violation of the chapter or rules.
- (3)
  - (a) In addition to other penalties and remedies in this chapter, and in addition to its other enforcement powers under Section 13-2-6, the division director may:
    - (i) issue a cease and desist order; and
    - (ii) impose an administrative fine of up to:
      - (A) \$100 per day that a proprietary school operates without an effective certificate of registration if the violation is not an intentional violation;
      - (B) \$1,000 for each violation of this chapter that is not:
        - (I) described in Subsection (3)(a)(ii)(A); or
        - (II) an intentional violation; or
      - (C) \$5,000 for each intentional violation of this chapter.
  - (b) All money received through administrative fines imposed under Subsection (3)(a) shall be deposited in the Consumer Protection Education and Training Fund created by Section 13-2-8.
- (4) An intentional violation of this chapter is a class B misdemeanor, except as otherwise provided in Subsection 13-34-201(2).
- (5) A person intentionally violates this chapter if:
  - (a) the violation occurs after one of the following notifies the person by certified mail that the person is in violation of the chapter:
    - (i) the division;
    - (ii) the attorney general; or
    - (iii) a district or county attorney; and
  - (b) the violation is the same as the violation for which the person received the notification described in Subsection (5)(a).

Amended by Chapter 242, 2005 General Session

**13-34-112 Limitation of authority.**

Except for satisfying the criteria and standards for registration provided for in this chapter or by division rule, nothing in this chapter gives the division authority to regulate the content of individual courses or regulate the day-to-day operations of a proprietary educational institution.

Enacted by Chapter 222, 2002 General Session

**13-34-113 Denial, suspension, or revocation of a certificate of registration -- Limitations.**

- (1) In accordance with Chapter 2, Division of Consumer Protection, and Title 63G, Chapter 4, Administrative Procedures Act, the division may initiate proceedings to deny, suspend, or revoke a certificate of registration to operate a proprietary school under this chapter if:
  - (a) the division finds that the order is in the public interest; and

- (b)
  - (i) the registration statement or renewal statement is incomplete, false, or misleading in any respect;
  - (ii) the division determines that the educational credential associated with the proprietary school represents the undertaking or completion of educational achievement that has not been undertaken and earned; or
  - (iii) the proprietary school or an individual described in Subsection 13-34-107(2)(a)(ii)(B) has:
    - (A) violated any provision of:
      - (I) this chapter;
      - (II) the rules made by the division pursuant to this chapter; or
      - (III) a commitment made in a registration statement for a certificate of registration to operate the proprietary school;
    - (B) caused or allowed to occur a violation of any provision of:
      - (I) this chapter;
      - (II) the rules made by the division pursuant to this chapter; or
      - (III) a commitment made in a registration statement for a certificate of registration to operate the proprietary school;
    - (C) been enjoined by any court, or is the subject of an administrative or judicial order issued in this or another state, if the injunction or order:
      - (I) includes a finding or admission of fraud, breach of fiduciary duty, or material misrepresentation; or
      - (II) was based on a finding of lack of integrity, truthfulness, or mental competence;
    - (D) been convicted of a crime involving moral turpitude;
    - (E) obtained or attempted to obtain a certificate of registration under this chapter by misrepresentation;
    - (F) failed to timely file with the division any report required by:
      - (I) this chapter; or
      - (II) rules made by the division pursuant to this chapter;
    - (G) failed to furnish information requested by the division; or
    - (H) failed to pay an administrative fine imposed by the division in accordance with this chapter.
- (2) Division staff may place reasonable limits upon a proprietary school's continued certificate of registration to operate if:
  - (a) there are serious concerns about the proprietary school's ability to provide the training in the manner approved by the division; and
  - (b) limitation is warranted to protect the students' interests.
- (3)
  - (a) The division may require an individual described in Subsection 13-34-107(2)(a)(ii)(B) to:
    - (i) submit a fingerprint card in a form acceptable to the division; and
    - (ii) consent to a criminal background check by:
      - (A) the Federal Bureau of Investigation;
      - (B) the Utah Bureau of Criminal Identification; or
      - (C) another agency of any state that performs criminal background checks.
  - (b) The proprietary school or the individual who is subject to the background check shall pay the cost of:
    - (i) the fingerprint card described in Subsection (3)(a)(i); and
    - (ii) the criminal background check.

Amended by Chapter 360, 2014 General Session

**13-34-114 Consent to use of educational terms in business names.**

- (1) For purposes of this section:
  - (a) "Business name" means a name filed with the Division of Corporations and Commercial Code under:
    - (i) Section 16-6a-401;
    - (ii) Section 16-10a-401;
    - (iii) Section 16-11-16;
    - (iv) Section 42-2-6.6;
    - (v) Section 48-2a-102 or 48-2e-108, as appropriate pursuant to Section 48-3a-1405; or
    - (vi) Section 48-2c-106 or 48-3a-108, as appropriate pursuant to Section 48-3a-1405.
  - (b) "Educational term" means the term:
    - (i) "university";
    - (ii) "college"; or
    - (iii) "institute" or "institution."
- (2) If a statute listed in Subsection (1)(a) requires the written consent of the division to file a business name with the Division of Corporations and Commercial Code that includes an educational term, the division may consent to the use of an educational term in accordance with this statute.
- (3) The division shall consent to the use of an educational term in a business name if the person seeking to file the name:
  - (a) is registered under this chapter;
  - (b) is exempt from the chapter under Section 13-34-105; or
  - (c)
    - (i) is not engaged in educational activities; and
    - (ii) does not represent that it is engaged in educational activities.
- (4) The division may withhold consent to use of an educational term in a business name if the person seeking to file the name:
  - (a) offers, sells, or awards a degree or any other type of educational credential; and
  - (b) fails to provide bona fide instruction through student-faculty interaction according to the standards and criteria established by the division under Subsection 13-34-104(5).

Amended by Chapter 412, 2013 General Session

**Part 2**  
**Fraudulent Educational Credentials**

**13-34-201 Fraudulent educational credentials.**

- (1) A person may not use, give, or receive, or attempt or conspire to do so, in connection with a business, trade, profession, or occupation, a degree or other document which has been purchased, obtained, fraudulently or illegally issued, counterfeited, materially altered, or found, or which serves to evidence the undertaking or completion of scholastic achievement if the education has not been undertaken and attained.
- (2) A violation of this section is a class A misdemeanor.

Enacted by Chapter 222, 2002 General Session